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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,878	03/22/2001	Karapet Ablabutyan	17793.00600	7381

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Manatt, Phelps & Phillips, LLP  
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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/815,878

Applicant(s)

ABLABUTYAN, KARAPET

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 28 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saucier et al. in view of Antoun. In regards to claim 1 Saucier et al. teach a lift device (L) appended to a vehicle (V), said lift device comprising:

a movable platform (15);

said platform is movable between a ground and load position where it is

substantially horizontal, and a stowed position where said platform is

substantially vertical;

said platform being connected to a lever arm assembly(13) and further including

a hydraulic drive apparatus (38) actuated by a pump (40) and motor (42)

assembly.

Saucier et al. do not teach control circuitry causing the pump motor to run at variable speeds based upon sensory inputs. Antoun (US 5,951,216) teaches a pump motor (304) with a variable frequency drive 9203), that controls the speed of the pump motor (304) and hence the speed of the pump (300), thereby varying the pressure of fluid being pumped. See column 4 lines 2-5.

It would have been obvious to one of ordinary skill in the art, at the time of invention that the variable frequency drive system taught by Antoun could have been added to the lift device taught by Saucier et al. in order to have the pump load on the vehicles electrical system decreased at times when a small amount of pressure is needed to operate the lift device, thereby saving energy needed to run the system.

In regards to claims 2-4 Saucier et al. further teaches the device as comprising:  
a lift arm assembly (13) comprising at least one parallelogram structure;  
different rates of speed for pivoting from horizontal to vertical positions and  
raising from the ground to the load positions;  
the lift device is for a wheelchair.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saucier et al. in view of Antoun as applied to claim 1 above, and further in view of Neagu. Saucier et al. in view of Antoun teach the limitations of claim 1 as above, they do not teach the lift device as being a tailgate type lift. Neagu teaches a tailgate type lift (10). It would have been obvious to one of ordinary skill in the art, at the time of invention that the device as taught by Saucier et al. in view of Antoun could be modified to fit work on the tailgate of a vehicle as taught by Neagu in order to allow the device to load and unload a truck in a safe and efficient manner.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. in view of Antoun. Taylor et al. (US4,457,401) teach a lift device for enabling ready access to a vehicles undercarriage, said lift comprising a platform for supporting a vehicle that is movable from a ground position to a raised position, and back to the

ground again. Taylor et al. do not teach the rate of speed of the movable platform as being controlled by varying the speed of a hydraulic pump. Antoun teaches a pump motor (304) with a variable frequency drive (203), that controls the speed of the pump motor (304) and hence the speed of the pump (300), thereby varying the pressure of fluid being pumped. See column 4 lines 2-5.

It would have been obvious to one of ordinary skill in the art, at the time of invention that the variable frequency drive system taught by Antoun could have been added to the lift device taught by Taylor et al. in order to have the pump run at its maximum efficiency at all times thereby generating a savings in energy usage for the owner of the lift.

### ***Response to Arguments***

In response to applicant's argument that Antoun U.S. 5,951,216 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Antoun reference teaches varying the amount of fluid moved by varying the speed of a motor driving a pump. A hydraulic motor is commonly known to operate at a speed proportional to the volume of hydraulic fluid pumped through the motor. See the Saucier et al. reference at column 7 lines 6-41. Therefore one of ordinary skill in the art would look to any means of adjusting the volumetric flow from a pump as a means of adjusting the speed of a hydraulic system.

In regards to the arguments against the rejection of claim 3 saucier teaches different paths through a control valve for varying the flow of hydraulic fluid to a hydraulic actuator, thus causing the actuator to move at varying speeds during different parts of the operation cycle of a wheelchair lift. Antoun teaches varying the speed of a motor to cause a pump to move a varying volume of liquid based upon a users need. One of ordinary skill in the art would have seen that providing the motor control of Antoun on the device of saucier would have allowed for a simpler device by doing away with the need for a complex control valve in the hydraulic system.

In regards to claim 5 Neagu teaches a lift gate for the tailgate of a vehicle, the element not taught by Saucier and Antoun. Therefore the combination of references do teach all the limitations of claim 5.

In regards to the rejection of claim 6 the Antoun reference is properly combinable with the Taylor et al. reference for the same reasons it was properly combinable with the Saucier reference. Namely that the Antoun reference teaches using a variable frequency drive for a motor connected to a pump to vary the volume of liquid that motor causes to be pumped. Therefore the references are proper in their combination in that they teach the limitations of the claim and both are in arts that one of ordinary skill in the art would have looked at to determine the state of the art of lift devices and variable frequency drives for pumps.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

CAF  
April 30, 2003  
CAF 4-30-03